

## KANEOHE BAY BNB

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February 11, 2016

Councilman Ikaika Anderson, Chair & Presiding Officer  
Councilman Trevor Ozawa, Vice Chair  
Committee on Zoning and Planning  
City and County of Honolulu  
Honolulu, Hawaii 96813-3077

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**RE: Bill 6 (2016) Nonconforming Use Certificates**

Dear Chair Anderson, Vice Chair Ozawa and Members of the Committee:

I am Ross Yamasaki speaking on behalf of Gail Morris, the proprietor of Kaneohe Bay BNB.

Since 1989 we have renewed our Nonconforming Use Certificate, paid our General Excise Taxes and Transient Accommodation Tax. In 2012 the City and County of Honolulu switched to an online procedure for renewals. They sent out the attached letter dated March 23, 2012 indicating they would no longer be sending out reminders notice for renewals. We received no further written communication from the Department till we received the attached certified letter dated October 22, 2014 informing us that the Nonconforming Use Certificate is terminated for failure to renew. That's almost 2 ½ years of no communication from the City.

**Please Note:** When we completed the online application in 2012, we paid the fee and there was no feedback from the City to ask us to check or verify what was submitted online. This is important as there was an error.

In 2011, I understand the City proposed the attached ordinance to correct this situation but it was not pursued.

It appears the city sends renewal notices for driver's license renewals and auto registration to hundreds of thousands of people. There is a procedure for missing a deadline and it involves a penalty. With only over 80 "legal" BNB's on Oahu why is the penalty for failure to renew so draconian and puts you out of business?

There is no due process involved with the current procedure. The only option is to go the Zoning Board of Appeals, which is a contested case hearing and requires legal assistance. We went through that process and the Zoning Board of Appeals has ruled that the City has no obligation to notify holders of a Nonconforming Use Certificate that their license is about to expire. The next step is to appeal to the Courts, which we are doing.

Councilman Ikaika Anderson, Chair  
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**Transparency**

It doesn't appear that the City is concerned about "due process" or supporting those that are actually engaged in this business or they would have revised this procedure before now.

While the City can revise the procedure of notification by sending you a letter, there is no hearing or rule making process required. This doesn't seem fair nor equitable and certainly doesn't speak well for "due process" or transparency.

WE urge you to pass Bill 6 to give us a process to restore our license.

Respectfully Submitted,

Ross Yamasaki on behalf of  
Gail Morris, Owner